IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 945 of 1994

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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SARDAR PATEL SHAK MARKET ASSO.

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 945 of 1994

MR TUSHAR MEHTA for Petitioners

MS HARSHA DEVANI AGP for Respondent No. 1

Respondent No. 2 :: Served

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 16/01/2003

ORAL JUDGEMENT

The petitioners before this Court are the

Association of the allottes and the occupants of the shops situated in Baroda Agricultural Produce Market Yard and one of such occupants. The respondents are the State of Gujarat and the Agricultural Produce Market Committee, Baroda.

It appears that the members of the petitioner no. 1-Association including the petitioner no. 2 [hereinafter referred to as, "the Vegetable Vendors"] are engaged in wholesale business of vegetables for a long time. They were allotted shops in the market yard known as Khanderao Market. For want of space, the market yard was shifted to the present premises under an agreement made between the Municipal Corporation and the Market Committee. The shops in the newly constructed market yard were decided to be allotted by public auction. However, under resolution dated 15th October, 1988, the said decision was revised and it was decided to allot shops to the vegetable vendors who were occupants of the shops in Khanderao Market. Accordingly, the vegetable vendors were allotted shops in the new market yard known as Sardar Patel Shak Market.

Pursuant to some complaints made against the allotment of the shops, the State of Gujarat appears to have caused an inquiry to be made by the Deputy Director, Agricultural Produce Marketing & Rural Finance and District Registrar, Vadodara. Pursuant to the report received from the said Inquiry Officer, the State of Gujarat appears to have formed an opinion that grave irregularities were committed in allotment of the shops in the market yard to the vegetable vendors. The State Government, therefore, under order dated 1st November, 1993 set-aside the above referred resolution dated 15th October, 1988 under which the aforesaid allotment was made. Feeling aggrieved, the petitioners have preferred the present petition.

Mr. Mehta has challenged the impugned order dated 1st November, 1993 on the grounds of delay and latches and of breach of principles of natural justice. Mr. Mehta has also assailed the conclusions arrived at by the State Government. Mr. Mehta has dealt with each of the irregularity referred to by the State Government and has submitted that none of the findings arrived at by the State Government is sustainable on merits.

As it is apparent, the Order made by the State Government is unilateral in as much as neither the Market Committee nor the vegetable vendors have been given an opportunity either of making representation against the

intended action or of hearing. Thus, the impugned order has been made in breach of the principles of natural justice. Besides, the allotment made as far back as in the year 1988 is sought to be unsettled after more than 8 years. Hence, the impugned order dated 1st November, 1993 deserves to be quashed and set-aside.

In the result, the petition is allowed. The impugned order dated 1st November, 1993 made by the State Government is quashed and set-aside. Rule is made absolute with costs.

{Ms. R.M Doshit, J.}

Prakash*